

Supporting Statement for Paperwork Reduction Act Submissions
30 CFR Part 206, Subpart B—Indian Oil,
§ 206.55—Determination of Transportation Allowances
Form MMS-4110, Oil Transportation Allowance Report
OMB Control Number 1010-0061
Current Expiration Date: October 31, 2004

General Instructions

The Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the *Federal Register*, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked “Yes,” Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Secretary of the U.S. Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws.

The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Minerals Management Service (MMS) performs the royalty management functions and assists the Secretary in carrying out the Department’s Indian trust responsibility. Applicable citations of the laws pertaining to mineral leases on Indian lands include 25 U.S.C. 396d (Chapter 12—Lease, Sale, or Surrender of Allotted or Unallotted Lands); 25 U.S.C. 2103 (Indian Mineral Development Act of 1982); and Public Law 97-451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982) (Attachment 1).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such

information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

The Secretary is required by 30 U.S.C. 1711 (Attachment 2) to establish a system to accurately determine product valuation, royalties, and other amounts due. Such a system requires the continued collection of published oil price bulletins, oil sales contracts (upon request), and data necessary for MMS to verify the costs associated with the transportation deduction claimed. Failure to collect the data described in this information collection may result in the undervaluation of leased minerals.

Regulations at 30 CFR 206, Subpart B (Attachment 3), establish uniform product valuation and allowance policies for Indian leases. In some instances, these regulations require the lessees to provide information to support the product value for royalty purposes or allowances claimed. Without such information, we cannot evaluate the proper royalties due or the allowances claimed. The MMS has developed product valuation and allowance policies as a part of our responsibility to establish criteria and accountability for revenues from mineral leases.

The MMS normally accepts gross proceeds accruing to the lessee under its arm's-length oil sales contract, less allowable transportation deductions, as representing proper value for royalty purposes. We will also accept, for royalty valuation purposes, the prices in other than arm's-length oil sales contracts, less applicable transportation deductions, if the criteria in the benchmarks at 30 CFR 206.52(c) are met and provided that the value is not less than gross proceeds accruing to the lessee under 30 CFR 206.52(h). In some circumstances, lessees are authorized to deduct from royalty payments the reasonable actual cost of transporting the royalty portion of the oil from the lease to a delivery point remote from the lease. Transportation allowances are a part of the product valuation process that we use to determine if the lessee is reporting and paying the proper royalty amount.

The fragmented nature of the oil and gas industry and potential changes in (1) oil and gas production areas and lease ownership and/or operation; (2) pipeline construction, operation, or ownership; and (3) refinery operations and producer-refinery relationships are factors that affect how many Indian lessees may take a transportation allowance. Although MMS had only one respondent for the review period, we are renewing this information collection request because of the possibility of more than nine respondents who may each have numerous leases and/or agreements impacted by changes in transportation agreements.

We changed the title of this information collection request to clarify the regulatory language we are covering under 30 CFR Part 206. The previous title was "Oil Transportation Allowances." The new title is "30 CFR Part 206, Subpart B—Indian Oil, § 206.55—Determination of Transportation Allowances (Form MMS-4110, Oil Transportation Allowance Report)."

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from

the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

The MMS and tribal personnel use the information collected on transportation costs to evaluate the reasonableness of allowances reported and claimed by lessees. Under Section 202 of the Federal Oil and Gas Royalty Management Act of 1982, certain tribes have been given audit authority by the Secretary (30 U.S.C. 1732). The MMS reimburses the tribes for their audit work under this agreement. The determination of the appropriate product value or allowance rate directly affects royalties due. Tribes given audit authority use the data submitted on the allowance forms and contained in allowance contracts for verification purposes. The tribes urge us to continue to require routine submission of allowance information.

Regulations at 30 CFR 206.54 provide that where the value of oil for royalty purposes has been determined at a point remote from the lease, MMS will allow a reasonable deduction for the transportation of royalty oil. Provisions for determining transportation allowances are at 30 CFR 206.55. The regulations do not require our approval of a transportation allowance before a lessee may take a deduction. However, under 30 CFR 206.55(a)(1), lessees must submit the Oil Transportation Allowance Report, Form MMS-4110 and supporting schedules (Attachment 4), before or in the same month they report the transportation allowance on the Report of Sales and Royalty Remittance, Form MMS-2014 (OMB Control Number 1010-0140, expiration date October 31, 2006).

Information required on Form MMS-4110 includes the following information: the lessee's (payor's) name and address; payor code; lease and/or agreement number; and product code. Also required on Form MMS-4110 are (1) data supporting the transportation allowance claimed in the prior 12-month reporting period, if applicable, and (2) data supporting the estimated allowance for the current period. Supporting data includes the quantity of royalty oil, costs incurred transporting royalty oil, and the allowance rate determined by dividing the costs incurred by the quantity of royalty oil transported. The allowance rate is effective for a calendar year, or until the contract or rate terminates or is modified, whichever is earlier, at which time the lessee must resubmit Form MMS-4110, in accordance with 30 CFR 206.55(c). At times, we may request that a lessee submit transportation contracts, production agreements, operating agreements, and related documents in support of transportation allowances and product valuation.

If a lessee has a non-arm's-length transportation contract or no contract, the lessee bases the transportation allowance on reasonable actual costs (30 CFR 206.55(b)). The lessee must initially submit a completed Form MMS-4110 and supporting schedules in the same month the transportation allowance is first reported on Form MMS-2014. The completed Form MMS-4110 summarizes actual operating, maintenance, and overhead costs, along with a summary of depreciation and undepreciated capital investment costs.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of

using information technology to reduce burden [and specifically how this collection meets GPEA requirements].

The MMS Minerals Revenue Management (MRM) program is moving to fully implement the Government Paperwork Elimination Act with our reengineered business processes. Respondents may submit Form MMS-4110 (on MMS web) electronically through e-mail; however, at this time we have only one respondent, and the company has not submitted any forms electronically.

Further information technology enhancements are not applicable for this information collection at this time because we receive very few submissions of Form MMS-4110 per year. It is not cost effective to enhance the current computer system design to process a minimum number of forms.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

No other Federal or State agency collects the same or similar information. The primary information necessary for the evaluation of a specific transportation allowance proposal is available only within the records of the applicant, and the use of such data is unique to our mission. No other adequate information is available that can be used to determine the reasonableness of oil transportation allowances.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This collection of information does not have a significant economic effect on a substantial number of small entities because there are very few submissions of Form MMS-4110. Although small organizations are among the potential respondents, MMS has carefully analyzed its requirements to ensure that the information requested is the minimum necessary and places the least possible burden on industry. We provide toll-free telephone assistance and schedule annual training free of charge in various geographic areas to assist reporters in complying with valuation and reporting requirements.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

By delegation of the Secretary's trust responsibilities under Indian lease terms, MMS is responsible for ensuring proper valuation of production from Indian leases. Lessees must submit new transportation allowance proposals annually, and thereafter as new transportation arrangements occur. Not collecting this information may hinder our ability to ascertain the reasonableness of the costs claimed for transportation allowances and to ensure that lessees pay royalties properly.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

(a) requiring respondents to report information to the agency more often than quarterly.

Not applicable in this collection.

(b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

Not applicable in this collection.

(c) requiring respondents to submit more than an original and two copies of any document.

Not applicable in this collection.

(d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.

In accordance with 30 U.S.C. 1713(b), Indian oil and gas records must be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that such records must be maintained for a longer period due to an ongoing audit or investigation.

(e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

Not applicable in this collection.

(f) requiring the use of statistical data classification that has been reviewed and approved by OMB.

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii) as the collection is not a statistical survey and does not use statistical data classification.

(g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

This collection does not include a pledge of confidentiality not supported by statute or regulation.

(h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This collection does not require proprietary, trade secret, or other confidential information not protected by agency procedures. Information is protected in accordance with standards identified in Item 10 below.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past 3 years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.] Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice in the *Federal Register* on April 26, 2004 (69 FR 22550) (Attachment 5). Also, 30 CFR 250.199 and the Paperwork Reduction Act statement on the Form MMS-4110 explain that MMS will accept comments at any time on the information collected and the burden. We display the OMB control number and provide the address for sending comments to MMS. We received no comments in response to the *Federal Register* notice, no unsolicited comments from potential respondents covered under these regulations, and no comments from anyone who submits the Form MMS-4110.

We contacted one company (the only respondent at this time) and revised our burden hour estimates based on information obtained. The chart in Item 12 listing the estimated burden hours reflects the input of the company identified below.

Ms. Jaime Giese
Marathon Oil Company
539 S. Main Street
Findley, Ohio 45840
(419) 421-2801

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We will not provide any payment or gift to respondents in this collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Commercial or financial information provided to MMS, relative to minerals removed from Federal and Indian leases, may be proprietary. Trade secrets and proprietary and other

information are protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1733); the Freedom of Information Act (5 U.S.C. 552(b)(4)) and its implementing regulations (43 CFR 2); 30 CFR 250.196, "Data and information to be made available to the public."

In addition, the Indian Mineral Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act in the possession of the Department shall be held as privileged proprietary information. Storage of proprietary information and access to it are controlled by strict security measures.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The collection does not include sensitive or private questions.

12. Provide estimates of the hour burden of the collection of information. The statement should:

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

Although we had only 1 respondent during the review period, we base our calculations of the estimated burden hours on the expectation of approximately 12 responses from 6 Indian lessees. Responses are filed annually and on occasion. We include reporting requirements (§ 206.55(c)(1)(iv) and § 206.55(c)(2)(vi)) that were overlooked in the previous renewal; however these reporting requirements are audit related and impose no additional burden hours. The revised annual reporting burden is 60 hours. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

(b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

This information collection has one form, Form MMS-4110, and supporting schedules.

(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

We expect approximately 12 responses from 6 respondents (Indian lessees), including 3 for arm's-length contracts and 3 for non-arm's-length contracts. We estimate the total annual burden is 60 reporting hours. Based on a cost factor of \$50 per hour, we estimate the total annual cost to industry is \$3,000 (\$50 x 60 hours = \$3,000). Respondents submit Form MMS-4110 annually and thereafter as new transportation arrangements occur. There are no additional recordkeeping costs. The following chart shows the estimated burden hours by CFR section and paragraph:

SECTION A.12 BURDEN BREAKDOWN

Citation 30 CFR 206 Subpart B	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
<i>Indian Oil Transportation Allowances</i>				
206.55 (a)(1)(i)	<i>Arm's-length transportation contracts.</i> * * * Before any deduction may be taken, the lessee must submit a completed page one of Form MMS-4110 (and Schedule 1), Oil Transportation Allowance Report * * *.	See § 206.55(c)(1)(i) and (iii).		0
206.55 (b)(1)	<i>Non-arm's-length or no contract.</i> * * * Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS-4110 in its entirety * * *.	See § 206.55(c)(2)(i), and (iii).		0
206.55 (c)(1)(i)	<i>Reporting requirements. Arm's-length contracts.</i> With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS-4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined under an arm's-length contract, is reported on Form MMS-2014, Report of Sales and Royalty Remittance. * * *	4	3	12

Citation 30 CFR 206 Subpart B	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
206.55 (c)(1)(iii)	<i>Arm's-length contracts.</i> After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS-4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	4	3	12
206.55 (c)(1)(iv)	<i>Arm's-length contracts.</i> MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.	PRODUCE RECORDS The Office of Regulatory Affairs (ORA) determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
206.55 (c)(2)(i)	<i>Non-arm's-length or no contract.</i> With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS-4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS-2014. * * * The initial report may be based upon estimated costs.	6	3	18
206.55 (c)(2)(iii)	<i>Non-arm's-length or no contract.</i> For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS-4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS-4110 its estimated costs for the next calendar year. * * * MMS must receive the Form MMS-4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	6	3	18

Citation 30 CFR 206 Subpart B	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
206.55 (c)(2)(iv)	<i>Non-arm's-length or no contract.</i> For new transportation facilities or arrangements, the lessee's initial Form MMS-4110 shall include estimates of the allowable oil transportation costs for the applicable period. * * *	See § 206.55(c)(2)(i).		0
206.55 (c)(2)(vi)	<i>Non-arm's-length or no contract.</i> Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS-4110. The data shall be provided within a reasonable period of time, as determined by MMS.	PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
TOTAL BURDEN			12	60

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

(a) The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life) and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

(b) If cost estimates are expected to vary widely, agencies should present ranges of cost burden and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

(c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We have identified no paperwork cost burdens for this collection of information.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

We estimate the Federal Government will spend an average of 24 hours (2 hours x 12 responses) annually to review the required information. The time estimate includes maintaining a log of allowance forms filed by payor, filing the forms, and verifying the data submitted during the compliance process. Based on a cost factor of \$50 per hour, the annualized cost to the Federal Government is \$1,200 (24 hours x \$50 = \$1,200).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Item 13, OMB Form 83-I

The current OMB inventory for this collection of information is 5 burden hours. We are increasing the burden hours to 60 hours, an adjustment of 55 hours, which is primarily the result of re-estimating the average annual responses and the amount of time required to provide the information, based on consultations with one company. In addition, we include reporting requirements (§ 206.55(c)(1)(iv) and § 206.55(c)(2)(vi)) that were overlooked in the previous renewal; however these reporting requirements are audit related and impose no additional burden hours.

Item 14, OMB Form 83-I

There is no cost burden to report in Item 14 of the OMB Form 83-I.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The MMS will not publish the data.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The MMS will display the OMB approval expiration date on Form MMS-4110.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

To the extent that the topics apply to this collection of information, we are not making any exceptions to the “Certification for Paperwork Reduction Act Submissions.”

B. Collection of Information Employing Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked “Yes,” the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed.

This section is not applicable for this collection. We will not employ statistical methods in this information collection.